

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

In re:	)	
	)	CHAPTER 11
PHILIP JAY FETNER	)	
DBA PJF LIMITED PARTNERSHIP	)	
DBA COACHMEN FARMS, L.L.C.	)	
A/K/A P. JAY FETNER	)	
	)	CASE No. 17-13036-KHK
Debtor.	)	
<hr style="width: 50%; margin-left: 0;"/>	)	
BANK OF AMERICA, N.A.	)	
	)	
Movant,	)	
v.	)	
	)	
PHILIP JAY FETNER	)	
DBA PJF LIMITED PARTNERSHIP	)	
DBA COACHMEN FARMS, L.L.C.	)	
A/K/A P. JAY FETNER	)	
	)	FILED PURSUANT TO 11 U.S.C
Defendants.	)	SECTION 362

**MOTION SEEKING RELIEF FROM STAY**

Comes now Bank of America, N.A. (the “Movant”), a secured creditor, by Counsel, and moves this Honorable United States Bankruptcy Court for Relief from the Stay imposed by 11 U.S.C. Section 362(a) , and in support thereof, state as follows:

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David A. Rosen  
Virginia Bar No. 44494  
BUONASSISSI, HENNING & LASH  
A Professional Corporation  
1861 Wiehle Avenue, Suite 300  
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*Counsel for Movant*

1. That this Motion is filed pursuant to 11 U.S.C. Section 362(d) and Rules 4001 and 9014 of the Bankruptcy Rules, as hereinafter shall more fully appear.

2. That the Movant is a secured creditor of the Debtor, whose claim is based upon a certain Note dated December 1, 2006 in the principal amount of \$2,300,000.00 and executed by P. Jay Fetner and PJF Limited Partnership, c/o P. Jay Fetner, Limited Partner, the Debtor herein. The total amount due, including the unpaid principal balance of \$1,700,000.00 due under said Note as of November 14, 2017, interest of \$135,302.58 at the Note rate, late charges and attorney's fees and costs was approximately \$1,937,246.84. A copy of an estimated payoff statement is attached hereto, marked as Exhibit A, as is a copy of the said Note and Loan Modification Agreement, marked as Exhibit B. Repayment of said Note is secured by that certain Deed of Trust dated December 1, 2006 and recorded on December 6, 2006 in Deed Book 1244 at Page 1260-1282 among the land records of Fauquier County, Virginia, by which the subject property was conveyed to PRLAP, INC., Trustee(s), which property has the address of 7476 Stoney Hill Lane, The Plains, VA 20198 and which is more particularly described in the Deed of Trust as:

ATTACHED AS EXHIBIT C

A copy of said Deed of Trust is attached hereto, marked as Exhibit D, and expressly made a part hereof.

3. That on September 7, 2017, the United States Bankruptcy Court for the Eastern District of Virginia entered an Order for Relief under 11 U.S.C. Chapter 11 upon a petition filed by Philip Jay Fetner, dba PJF Limited Partnership, dba Coachmen Farms, L.L.C., a/k/a P. Jay Fetner, Case No. 17-13036-KHK.

4. That the Debtor is in default in repayment of the note. A copy of a reinstatement balance is attached hereto as Exhibit E.

5. That the Debtor have failed to make post-petition payments to the Movant, and are therefore in default, post-petition, as of October 31, 2017, as follows:

48 regular monthly payments @ \$5,148.03 each	\$247,105.44
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Estimated attorney's fees (\$850.00) and costs (\$181.00) for representation in this proceeding	<u>\$ 1,031.00</u>
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<b><u>TOTAL</u></b>	<b><u>\$248,136.44</u></b>
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A copy of the post-petition payment history is attached hereto, marked as Exhibit E, and expressly made a part hereof.

5. That by reason of the foregoing, the Movant lacks adequate protection for its security interest and is, and continues to be, irreparably harmed by the continuation of stay of 11 U.S.C. Section 362(a) and that therefore cause exists for the termination thereof.

6. That tax assessment of Fauquier County states that the subject property has a current value of \$1,340,400.00 which indicates that in the event of a forced sale, there would not be any excess equity after the payment of the administrative costs of sale, the liens on the property, any exemptions of the Debtor and any co-obligor share, for the benefit of the other creditors of the estate and, therefore, cause exists for the lifting of the Stay of 11 U.S.C. Section 362(a).

7. That upon entry of an Order terminating the stay of 11 U.S.C. Section 362(a), the Movant should be free to take such actions with respect to the subject property as are set forth under applicable non-bankruptcy law (i.e. modification, short sale and other loss mitigation options), and should be relieved from any further filing requirements pursuant to Fed. R. Bankr. P. 3002.1(b)-(c).

Bank of America, N.A. reserved the right to foreclose. Shellpoint Mortgage Servicing services the underlying mortgage loan and note for the property referenced in this Motion for Movant. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant. Movant, directly or through an agent, has possession of the Note. The Note is either made payable to Movant or has been duly endorsed.

WHEREFORE, the Movant respectfully moves this Honorable United States Bankruptcy Court for entry of an Order (i) granting it, its successors and/or assigns relief from the stay of 11 U.S.C. Sections 362(a) so that the undersigned may proceed to enforce its security interest in the subject property by instituting or continuing foreclosure proceedings against the subject property in state court, (ii) allowing it to take such other actions with respect to the subject property as are set forth under applicable non-bankruptcy law, (iii) allowing the successful purchaser at the foreclosure sale to obtain possession of the subject property, and (iv) that the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

**NOTICE OF INTENT TO SUBMIT BUSINESS RECORDS**

The Movant will submit business records as evidence at any scheduled hearing, as allowed under Fed. R. Bankr. P. 9017 and FRE 902(11). These business records and the declaration of their maintenance as business records are available for inspection by the adverse party upon demand.

**NOTICE**

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

**If you do not wish the Court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then within 14 days from the date of service of this motion, you must file a written response explaining your position with the Court and serve a copy on the movant. Unless a written response is filed and served within this 14-day period, the Court may deem opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing.**

**If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the 14-day period.**

**You will be notified separately of the hearing date on the motion.**

BANK OF AMERICA, N.A.

By: /s/David A. Rosen  
David A. Rosen  
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*Counsel for Bank of America, N.A.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7th day of November, 2017, a true copy of the foregoing

Motion Seeking Relief from Stay was mailed first-class, postage prepaid, to:

Philip Jay Fetner - Debtor  
dba PJF Limited Partnership  
dba Coachmen Farms, L.L.C.  
a/k/a P. Jay Fetner  
7476 Stoney Hill Lane  
The Plains, VA 20198

And electronically transmitted to:

John T. Donelan - Counsel for Debtor  
Law Office of John T. Donelan  
125 S. Royal Street  
Alexandria, VA 22314

U.S. Trustee - U.S. Trustee  
Judy A. Robbins  
Office of the U.S. Trustee- Region 4  
115 South Union Street, Room 210  
Alexandria, VA 22314

Jack Frankel - Counsel for U.S. Trustee  
Office of the U.S. Trustee  
115 South Union Street, Room 210  
Alexandria, VA 22314

/s/David A. Rosen

David A. Rosen